

**ASSEMBLY BILL**

**No. 1013**

**Introduced by Assembly Member Leonard**

February 23, 2001

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An act to amend Sections 64 and 480.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1013, as introduced, Leonard. Property taxation: change in ownership.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing law also specifies those circumstances in which the transfer of ownership interests in a corporation, partnership, limited liability company, or other legal entity results in a change in ownership of the real property owned by that entity, and generally provides that a change in ownership as so described occurs when a legal entity or other person obtains a controlling or majority ownership interest in the legal entity. Existing law also requires the legal entity or other person that obtains a controlling or majority interest in a legal entity to file a change in ownership statement under penalty of perjury.

This bill would instead specify that any transfer of voting stock or other ownership interests of a corporation, partnership, or other legal entity is a change in ownership of the real property controlled either directly or indirectly by that legal entity, if that transfer results in the

transfer, whether individually or cumulatively since the last change in ownership of the real property controlled either directly or indirectly by that legal entity, of more than 50% of the ownership interests in that entity. This bill would also authorize the State Board of Equalization and local property tax assessors to examine public records of transfers of ownership interests in legal entities to determine whether a change in ownership of the real property of a legal entity has occurred. This bill would also require agents, as provided, of legal entities to file changes in ownership statements under penalty of perjury whenever a legal entity undergoes a change in ownership under the bill. By expanding the classes of persons that must file change in ownership statements under penalty of perjury, this bill would create a new crime and thus create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Because of assessment anomalies, it has long been predicted
- 4 that an increasing share of the property tax burden would shift to
- 5 homeowners. For many years, this had not occurred; however,
- 6 during the latter half of the last decade, a significant shift occurred.
- 7 According to the State Board of Equalization, the share of the
- 8 property tax burden that is borne by homeowners has risen steadily
- 9 from 32.8 percent in the early 1990's to 38.2 percent for
- 10 1999–2000; a remarkable shift in a few short years. Preliminary



1 numbers indicate that residential rental property maintained its  
2 relative share of the tax burden at about 25 percent of the roll, while  
3 commercial values declined as a percentage of the property tax  
4 burden (37 percent). The Public Policy Institute of California is in  
5 the process of determining the breakdown of ‘commercial’ land  
6 use.

7 (b) It is the intent of the Legislature in enacting this act to  
8 eliminate the anomalies in the assessment of property of California  
9 businesses for property tax purposes.

10 (c) It is the further intent of the Legislature in enacting this act  
11 to reform the method in which commercial and industrial property  
12 is assessed for property tax purposes to ensure that homeowners  
13 no longer pay a disproportionately high share of the state’s  
14 property taxes.

15 SEC. 2. Section 64 of the Revenue and Taxation Code is  
16 amended to read:

17 64. (a) Except as provided in subdivision (i) of Section 61  
18 and subdivisions (c) and (d) of this section, the purchase or transfer  
19 of ownership interests in legal entities, such as corporate stock or  
20 partnership or limited liability company interests, ~~shall not be~~  
21 ~~deemed to~~ *do not* constitute a transfer of the real property of the  
22 legal entity. This subdivision ~~is applicable~~ *applies* to the purchase  
23 or transfer of ownership interests in a partnership without regard  
24 to whether it is a continuing or a dissolved partnership.

25 (b) Any corporate reorganization, where all of the corporations  
26 involved are members of an affiliated group, and that qualifies as  
27 a reorganization under Section 368 of the United States Internal  
28 Revenue Code and that is accepted as a nontaxable event by similar  
29 California statutes, or any transfer of real property among  
30 members of an affiliated group, or any reorganization of farm  
31 credit institutions pursuant to the federal Farm Credit Act of 1971  
32 (Public Law 92-181), as amended, ~~shall not be~~ *is not* a change of  
33 ownership. The taxpayer shall furnish proof, under penalty of  
34 perjury, to the assessor that the transfer meets the requirements of  
35 this subdivision.

36 For purposes of this subdivision, “affiliated group” means one  
37 or more chains of corporations connected through stock ownership  
38 with a common parent corporation if both of the following  
39 conditions are met:

1 (1) One hundred percent of the voting stock, exclusive of any  
2 share owned by directors, of each of the corporations, except the  
3 parent corporation, is owned by one or more of the other  
4 corporations.

5 (2) The common parent corporation owns, directly, 100  
6 percent of the voting stock, exclusive of any shares owned by  
7 directors, of at least one of the other corporations.

8 (c) (1) ~~When a corporation, partnership, limited liability~~  
9 ~~company, other legal entity, or any other person obtains control~~  
10 ~~through direct or indirect ownership or control of more than 50~~  
11 ~~percent of the voting stock of any corporation, or obtains a~~  
12 ~~majority ownership interest in any partnership, limited liability~~  
13 ~~company, or other legal entity through the purchase or transfer of~~  
14 ~~corporate stock, partnership, or limited liability company interest,~~  
15 ~~or ownership interests in other legal entities, including any~~  
16 ~~purchase or transfer of 50 percent or less of the ownership interest~~  
17 ~~through which control or a majority ownership interest is obtained,~~  
18 ~~the purchase or transfer of that stock or other interest shall be a~~  
19 ~~change of ownership of the real property owned by the~~  
20 ~~corporation, partnership, limited liability company, or other legal~~  
21 ~~entity in which the controlling interest is obtained~~ Any transfer of  
22 voting stock or other ownership interests of a corporation,  
23 partnership, or other legal entity is a change in ownership of the  
24 real property controlled either directly or indirectly by that legal  
25 entity if that transfer results in the transfer, whether individually  
26 or cumulatively since the last change in ownership of the real  
27 property controlled either directly or indirectly by that legal entity,  
28 of more than 50 percent of the ownership interests in that entity.

29 (2) On or after January 1, 1996, when an owner of a majority  
30 ownership interest in any partnership obtains all of the remaining  
31 ownership interests in that partnership or otherwise becomes the  
32 sole partner, the purchase or transfer of the minority interests,  
33 subject to the appropriate application of the step-transaction  
34 doctrine, ~~shall not be~~ *is not* a change in ownership of the real  
35 property owned by the partnership.

36 (d) If property is transferred on or after March 1, 1975, to a  
37 legal entity in a transaction excluded from change in ownership by  
38 paragraph (2) of subdivision (a) of Section 62, then the persons  
39 holding ownership interests in that legal entity immediately after  
40 the transfer shall be considered the “original coowners.”

Whenever shares or other ownership interests representing cumulatively more than 50 percent of the total interests in the entity are transferred by any of the original coowners in one or more transactions, a change in ownership of that real property owned by the legal entity shall have occurred, and the property that was previously excluded from change in ownership under the provisions of paragraph (2) of subdivision (a) of Section 62 shall be reappraised.

The date of reappraisal shall be the date of the transfer of the ownership interest representing individually or cumulatively more than 50 percent of the interests in the entity.

A transfer of shares or other ownership interests that results in a change in control of a corporation, partnership, limited liability company, or any other legal entity is subject to reappraisal as provided in subdivision (c) rather than this subdivision.

(e) To assist in the determination of whether a change of ownership has occurred under subdivisions (c) and (d), the Franchise Tax Board shall include a question in substantially the following form on returns for partnerships, banks, and corporations (except tax-exempt organizations):

If the corporation (or partnership or limited liability company) owns real property in California, has cumulatively more than 50 percent of the voting stock (or more than 50 percent of total interest in both partnership or limited liability company capital and partnership or limited liability company profits) (1) been transferred by the corporation (or partnership or limited liability company) since March 1, 1975, or (2) been acquired by another legal entity or person during the year? (See instructions.)

If the entity answers “yes” to (1) or (2) in the above question, then the Franchise Tax Board shall furnish the names and addresses of that entity and of the stock or partnership or limited liability company ownership interest transferees to the State Board of Equalization.

SEC. 3. Section 480.1 of the Revenue and Taxation Code is amended to read:

480.1. (a) Whenever there is a change in ~~control~~ ownership of the real property of any corporation, partnership, limited

1 liability company, or other legal entity, *as a result of one or more*  
2 *transfers* ~~as defined~~ *described* in subdivision (c) of Section 64, a  
3 signed change in ownership statement as provided for in  
4 subdivision (b), shall be filed ~~by the person or legal entity~~  
5 ~~acquiring ownership control of such corporation, partnership,~~  
6 ~~limited liability company, or other legal entity~~ with the board at its  
7 office in Sacramento *by, in the case of a corporation, an officer of*  
8 *the corporation, or an employee or agent who has been designated*  
9 *in writing by the board of directors to file change in ownership*  
10 *statements on behalf of the corporation, or, in the case of a*  
11 *partnership, limited liability company, or other legal entity, by an*  
12 *officer, partner, manager, or an employee or agent who has been*  
13 *designated in writing by the partnership, limited liability*  
14 *company, or other legal entity to file change in ownership*  
15 *statements.* The statement shall list all counties in which the  
16 corporation, partnership, limited liability company, or legal entity  
17 owns real property.

18 (b) The change in ownership statement ~~as required pursuant to~~  
19 ~~required by~~ subdivision (a); shall be declared to be true under  
20 penalty of perjury and shall give ~~such~~ *any* information relative to  
21 the *change in ownership control acquisition transaction* as the  
22 board shall prescribe after consultation with the California  
23 Assessors' Association. The information shall include, but not be  
24 limited to, a description of the property owned by the corporation,  
25 partnership, limited liability company, or other legal entity, the  
26 parties to the transaction, and the date of the *change in ownership*  
27 ~~control acquisition~~. The change in ownership statement shall not  
28 include any question which is not germane to the assessment  
29 function. The statement shall contain a notice that is printed, with  
30 the title at least 12-point boldface type and the body in at least  
31 8-point boldface type, in the following form:

32  
33 "Important Notice"

34  
35 "The law requires ~~any person or legal entity acquiring~~  
36 ~~ownership control in~~ any corporation, partnership, limited liability  
37 company, or other legal entity owning real property in California  
38 subject to local property taxation to complete and file a change in  
39 ownership statement with the State Board of Equalization at its  
40 office in Sacramento *whenever more than 50 percent of the voting*

1 *stock or other ownership interest of a corporation, partnership,*  
2 *limited liability company, or other legal entity is transferred. The*  
3 *change in ownership statement must be filed within 45 days from*  
4 *the date of the change in ~~control~~ ownership of the real property of*  
5 *a corporation, partnership, limited liability company, or other*  
6 *legal entity. The law further requires that a change in ownership*  
7 *statement be completed and filed whenever a written request is*  
8 *made therefor by the State Board of Equalization, regardless of*  
9 *whether a change in control of the legal entity has occurred. The*  
10 *failure to file a change in ownership statement within 45 days from*  
11 *the date of a written request by the State Board of Equalization*  
12 *results in a penalty of 10 percent of the taxes applicable to the new*  
13 *base year value reflecting the change in ~~control~~ ownership of the*  
14 *real property owned by the corporation, partnership, limited*  
15 *liability company, or legal entity (or 10 percent of the current*  
16 *year's taxes on that property if no change in control occurred).*  
17 *This penalty will be added to the assessment roll and shall be*  
18 *collected like any other delinquent property taxes, and be subject*  
19 *to the same penalties for nonpayment."*

20  
21 (c) In the case of a corporation, the change in ownership  
22 statement shall be signed either by an officer of the corporation or  
23 an employee or agent who has been designated in writing by the  
24 board of directors to sign ~~such~~ *these* statements on behalf of the  
25 corporation. In the case of a partnership, limited liability company,  
26 or other legal entity, the statement shall be signed by an officer,  
27 partner, manager, or an employee or agent who has been  
28 designated in writing by the partnership, limited liability  
29 company, or legal entity.

30 (d) No person or entity acting for or on behalf of the parties to  
31 a transfer of real property shall incur liability for the consequences  
32 of assistance rendered to the transferee in preparation of any  
33 change in ownership statement, and no action may be brought or  
34 maintained against any such person or entity as a result of such  
35 assistance.

36 Nothing in this section shall create a duty, either directly or by  
37 implication, that such assistance be rendered by any person or  
38 entity acting for or on behalf of parties to a transfer of real property.

39 (e) The board or assessors may inspect any and all records and  
40 documents of a corporation, partnership, limited liability



1 company, or legal entity to ascertain whether a change in ~~control~~  
2 ownership as ~~defined~~ *described* in subdivision (c) of Section 64  
3 has occurred. The corporation, partnership, limited liability  
4 company, or legal entity shall upon request, make such documents  
5 available to the board during normal business hours.

6 *(f) The board or assessor may inspect any public records or*  
7 *public documents pertaining to transfers of ownership interests of*  
8 *a corporation, partnership, limited liability company, or other*  
9 *legal entity to ascertain whether a change in ownership as*  
10 *described in subdivision (c) of Section 64 has occurred.*

11 SEC. 4. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section 17556 of  
17 the Government Code, or changes the definition of a crime within  
18 the meaning of Section 6 of Article XIII B of the California  
19 Constitution.

20 SEC. 5. This act provides for a tax levy within the meaning of  
21 Article IV of the Constitution and shall go into immediate effect.

